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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,218	07/17/2006	Wilhelmus Franciscus Fontijn	FR040011US1	7876

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BRIARCLIFF MANOR, NY 10510

EXAMINER

CONNOLLY, MARK A

ART UNIT	PAPER NUMBER
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2115

MAIL DATE	DELIVERY MODE
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08/05/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/597,218	Applicant(s) FONTIJN, WILHELMUS FRANCISCUS	
	Examiner MARK CONNOLLY	Art Unit 2115	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 May 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2-9 and 11-13 is/are allowed.
- 6) ☒ Claim(s) 1, 10 and 14-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 June 2008 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/25/10</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 10 and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by MagicISO¹.

3. Referring to claim 1, MagicISO teaches the data disc comprising:

a. a first boot area for installing a first operating system for booting the first operating system from the optical disc [pg. 2].

b. a different second boot area, for installing a second operating system for booting the second operating system from the optical disc, the second operating system being independent of the first operating system and wherein depending on an application, the disc is enabled to be booted from one of the first boot area and the second boot area [pg. 2].

In particular, MagicISO teaches generating a boot CD or DVD which allows a user to boot one of a plurality of boot images via menu. It is interpreted that a first boot image is stored in a first area while a second boot image is stored in a second area. In addition, the menu for selecting a particular boot image to execute is interpreted as an application. As can be seen in the picture on page 2, each user entry to install a selected operating system causes a “Boot from

¹ As cited in the previous office action.

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O:\... .bif”² (i.e. the selected operating system boot information file). It should also be noted that since a user can boot Linux or a Windows based operating system, the operating systems are independent from one another. Finally, because the boot files are distinct from one another (i.e. not shared between operating systems), they inherently must be stored in separate areas and executing a given .bif file must inherently read it from its respective areas (herein interpreted as a boot area).

4. Referring to claim 10, this is rejected on the same basis as set forth hereinabove. In addition, MagicISO teaches booting from a default item if no selection is made within a timeout period [pg. 3]. The storage location of the default item is interpreted as the application specific boot area (since the menu itself is interpreted as an application as stated directly above) while the other boot image(s) are located in respective standard boot areas.

5. Referring to claim 14, MagicISO teaches that the user is able to select the default OS (i.e. interpreted as the application specific operating system as stated above). Because the user is able to boot from either Linux or Windows based operating systems (well known as comprising different file systems and differing boot-up times), clearly the operating system with the fastest boot time could be selected as the default application specific operating system.

6. Referring to claim 15, MagicISO teaches the disc as being a DVD. Therefore the data disc drive associated with the DVD is interpreted as a DVD optical drive.

7. Referring to claim 16, this is rejected on the same basis as set forth hereinabove. In particular, the menu, since it is resident on the data disc and therefore portable, is interpreted as a portable application used in selecting an operating system to boot from.

² See Command column on page 2.

Response to Arguments

8. Applicant's arguments filed 5/25/10 have been fully considered but they are not persuasive.

9. In the REMARKS, applicants argued in substance that 1) MagicISO does not disclose an "optical data disc" with "a first boot area" and "a second boot area" and 2) MagicISO does not disclose "An optical data disc" with "a standard boot area" and "an application specific boot area"

10. In response to applicant's first argument, MagicISO clearly teaches an optical data disc by reciting the use of a single CD/DVD [pg. 1]. Additionally, if the user wishes to boot a Linux OS, the system must boot from O:\linux.bif whereas if WinXP is to be booted, the system would have to boot from O:\winxp.bif [pg. 2]. Because the two boot files are different and not shared, they must be located in separate areas of the CD/DVD. These separate areas are interpreted as different boot areas since they store the boot information file required for their respective operating systems. There is no claim language that positively differentiates the claimed boot areas with the examiners above interpretations.

11. In response to applicant's second argument, the menu presented to the user for selecting which operating system to boot is interpreted as an application. By default, the menu can initiate booting of a pre-selected operating system if no user input is entered [pg. 3]. The pre-selected default operating system is interpreted as an application specific operating system and therefore stored in an application specific boot area. The remaining operating system(s) are interpreted as comprising a standard operating system and therefore stored in a standard operating system boot

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area. There is no claim language that positively differentiates the claimed boot areas with the examiners above interpretations.

Allowable Subject Matter

12. Claims 2-9 and 11-13 are allowed.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK CONNOLLY whose telephone number is (571)272-3666. The examiner can normally be reached on M-F 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas C. Lee can be reached on (571) 272-3667. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Connolly/
Primary Examiner, Art Unit 2115
8/2/10

Mark Connolly
Primary Examiner
Art Unit 2115